

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1358

Introduced by Assembly Members Hill and Nava
(~~Coauthor: Assembly Member Brownley~~ Coauthors: Assembly
Members Brownley and Monning)

February 27, 2009

An act to add Part 9 (commencing with Section 49700) to Division 30 of the Public Resources Code, relating to product management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1358, as amended, Hill. Product management: disposable food containers.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, among other things, prohibits a person from selling a food or beverage container in this state that is labeled with the term “compostable” or “marine degradable,” unless the food or beverage container meets certain requirements.

This bill would define terms for its purposes and, *beginning January 1, 2012*, prohibit a food vendor from dispensing prepared food to a customer in a disposable polystyrene food container, ~~a disposable nonrecyclable plastic food container, or a disposable nonrecycled content paper container. The bill would authorize a food vendor to dispense prepared food to a customer in a compostable plastic container in a jurisdiction where organic waste is collected curbside for composting.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Part 9 (commencing with Section 49700) is added
to Division 30 of the Public Resources Code, to read:

PART 9. PRODUCT MANAGEMENT

CHAPTER 1. DEFINITIONS

CHAPTER 2. POWERS AND DUTIES

CHAPTER 3. ENFORCEMENT AND PENALTIES

CHAPTER 5. TAKE OUT FOOD CONTAINERS

49760. For the purposes of this chapter, the following terms
have the following meanings:

(a) “Compostable” means the American Society for Testing and
Materials Standard Specification for Compostable Plastics D6400,
as published in September 2004, except as provided in subdivision
(e) of Section 42356.1.

(b) “Customer” means a person obtaining prepared food from
a food vendor.

(c) “Disposable food service ware” means all containers, bowls,
plates, trays, cartons, cups, lids, straws, forks, spoons, knives, and
other items that are designed for one-time use and on or in which
a food vendor directly places or packages prepared foods or that
are used to consume foods. “Disposable food service ware”
includes, but is not limited to, service ware for takeout foods or
leftovers from partially consumed meals prepared by a food vendor.

(d) “Polystyrene food container” means a plastic container,
comprised of a majority polystyrene plastic resin, that is used to
contain prepared food. The container is used, or is intended to be
used, to contain food, as defined in Section 109935 of the Health
and Safety Code.

(e) “Food vendor” means a restaurant or retail food and beverage
vendor located or operating within the state. Food vendor includes,

1 but is not limited to, itinerant restaurants, pushcarts, vehicular food
2 vendors, a store, a shop, a sales outlet, or other establishments,
3 including a grocery store or a delicatessen.

4 (f) “Nonrecyclable plastic food container” means a plastic food
5 container not made from polyethylene terephthalate (PET or PETE)
6 or high density polyethylene (HDPE).

7 (g) “Nonrecycled content paper container” means a food
8 container containing less than 100 percent post consumer recycled
9 paper content.

10 (h) “Prepared food” means food or beverages, that are served,
11 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
12 squeezed, or otherwise prepared for consumption. “Prepared food”
13 does not include raw, butchered meats, fish, or poultry, sold from
14 a butcher case or similar retail appliance. “Prepared food” may be
15 eaten either on or off the premises, and includes take-out food.

16 (i) “Recyclable plastic food container” means a plastic food
17 container made from polyethylene terephthalate (PET or PETE)
18 or high density polyethylene (HDPE).

19 (j) “Recycled content paper container” means a food container
20 containing 100 percent post consumer recycled paper content.

21 (k) “Take-out food container” means a container used to contain
22 food taken “to go” from a food vendor, including left-over food
23 from meals eaten on the premises and food packaged to be eaten
24 outside the premises of the food vendor.

25 49761. (a) Except as provided in subdivision (b), a food vendor
26 shall not dispense prepared food to a customer in a disposable
27 polystyrene food container, a disposable nonrecyclable plastic
28 food container, or a disposable nonrecycled content paper
29 container.

30 (b) A food vendor may dispense prepared food to a customer
31 in a compostable plastic container in a jurisdiction where organic
32 waste is collected curbside for composting.

33 (a) “Customer” means a person obtaining prepared food from
34 a food vendor.

35 (b) “Disposable polystyrene food container” means a plastic
36 container, comprised of a majority polystyrene plastic resin, that
37 is used to contain prepared food and that is designed for one-time
38 use.

39 (c) “Food vendor” means a restaurant or retail food and
40 beverage vendor located or operating within the state. Food vendor

1 *includes, but is not limited to, itinerant restaurants, pushcarts,*
2 *vehicular food vendors, a store, a shop, a sales outlet, or other*
3 *establishments, including a grocery store or a delicatessen.*

4 *(d) “Prepared food” means food or beverages that are served,*
5 *packaged, cooked, chopped, sliced, mixed, brewed, frozen,*
6 *squeezed, or otherwise prepared for consumption. “Prepared*
7 *food” does not include raw, butchered meats, fish, or poultry, sold*
8 *from a butcher case or similar retail appliance. “Prepared food”*
9 *may be eaten either on or off the premises, and includes take out*
10 *food.*

11 49761. *On and after January 1, 2012, a food vendor shall not*
12 *dispense prepared food to a customer in a disposable polystyrene*
13 *food container.*

14 49762. If a section, subdivision, sentence, clause, or phrase of
15 this chapter is held to be invalid or unconstitutional by a court of
16 competent jurisdiction, the decision shall not affect the validity of
17 the remaining portions of this chapter. The Legislature finds and
18 declares that it would have passed this chapter and each and every
19 section, subdivision, sentence, clause, and phrase not declared
20 invalid or unconstitutional without regard to whether any portion
21 of the chapter subsequently would be declared invalid or
22 unconstitutional.

23 49763. This chapter does not preempt the authority of a county,
24 city, or city and county to adopt and enforce additional single-use
25 take-out food packaging ordinances, regulations, or policies that
26 are more restrictive than the applicable standards required by this
27 chapter.